

**ASSEMBLY BILL**

**No. 142**

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**Introduced by Assembly Member Hayashi**

January 22, 2009

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An act to amend Section 104113 of the Health and Safety Code, relating to health studios.

LEGISLATIVE COUNSEL'S DIGEST

AB 142, as introduced, Hayashi. Health studios: external defibrillator unit requirements.

Existing law requires every health studio, as defined, to acquire, maintain, and train personnel in the use of automatic external defibrillator units. Existing law requires, among other things, that these health studios have trained employees available to respond to an emergency that may involve the use of an automatic external defibrillator unit during normal operating hours.

This bill would specify that the term “normal operating hours” shall not be defined to mean less than 50 hours per week of the total number of hours per week that the health studio is available for use by members or the general public.

This bill would also impose additional requirements, as specified, on health studios that are unstaffed for at least 20% of the total number of hours per week that the studio is available for use by members or the general public.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 104113 of the Health and Safety Code  
2 is amended to read:

3     104113. (a) (1) Commencing July 1, 2007, every health studio,  
4 as defined in subdivision (g) shall acquire an automatic external  
5 defibrillator. The requirement to acquire an automatic external  
6 defibrillator pursuant to this subdivision shall terminate on July  
7 1, 2012.

8     (2) Commencing July 1, 2007, and until July 1, 2012, every  
9 health studio, as defined in subdivision (g), shall maintain, and  
10 train personnel in the use of, any automatic external defibrillator  
11 acquired pursuant to paragraph (1).

12     (3) On or after July 1, 2012, a health studio that elects to  
13 continue the installation of an automatic external defibrillator that  
14 was acquired pursuant to paragraph (1) shall maintain and train  
15 personnel in the use of an automatic external defibrillator pursuant  
16 to this section, and shall not be liable for civil damages resulting  
17 from the use, attempted use, or nonuse of an automatic external  
18 defibrillator as provided by this section.

19     (b) An employee of a health studio who renders emergency care  
20 or treatment is not liable for civil damages resulting from the use,  
21 attempted use, or nonuse of an automatic external defibrillator,  
22 except as provided in subdivision (f).

23     (c) When an employee uses, does not use, or attempts to use,  
24 an automatic external defibrillator consistent with the requirements  
25 of this section to render emergency care or treatment, the members  
26 of the board of directors of the facility shall not be liable for civil  
27 damages resulting from any act or omission in rendering the  
28 emergency care or treatment, including the use or nonuse of an  
29 automatic external defibrillator, except as provided in subdivision  
30 (f).

31     (d) Except as provided in subdivision (f), when an employee of  
32 a health studio renders emergency care or treatment using an  
33 automatic external defibrillator, the owners, managers, employees,  
34 or otherwise responsible authorities of the facility shall not be  
35 liable for civil damages resulting from any act or omission in the  
36 course of rendering that emergency care or treatment, provided  
37 that the facility fully complies with subdivision (e).

1 (e) Notwithstanding Section 1797.196, in order to ensure public  
2 safety, a health studio shall do all of the following:

3 (1) Comply with all regulations governing the placement of an  
4 automatic external defibrillator.

5 (2) Ensure all of the following:

6 (A) The automatic external defibrillator is maintained and  
7 regularly tested according to the operation and maintenance  
8 guidelines set forth by the manufacturer, the American Heart  
9 Association, or the American Red Cross, and according to any  
10 applicable rules and regulations set forth by the governmental  
11 authority under the federal Food and Drug Administration and any  
12 other applicable state and federal authority.

13 (B) The automatic external defibrillator is checked for readiness  
14 after each use and at least once every 30 days if the automatic  
15 external defibrillator has not been used in the preceding 30 days.  
16 Records of these checks shall be maintained.

17 (C) Any person who renders emergency care or treatment on a  
18 person in cardiac arrest by using an automatic external defibrillator  
19 activates the emergency medical services system as soon as  
20 possible, and reports any use of the automatic external defibrillator  
21 to the licensed physician and to the local EMS agency.

22 (D) For every automatic external defibrillator unit acquired, up  
23 to five units, no less than one employee per automatic external  
24 defibrillator unit shall complete a training course in  
25 cardiopulmonary resuscitation and automatic external defibrillator  
26 use that complies with the regulations adopted by the Emergency  
27 Medical Services Authority and the standards of the American  
28 Heart Association or the American Red Cross. After the first five  
29 automatic external defibrillator units are acquired, for each  
30 additional five automatic external defibrillator units acquired, a  
31 minimum of one employee shall be trained beginning with the first  
32 additional automatic external defibrillator unit acquired. Acquirers  
33 of automatic external defibrillator units shall have trained  
34 employees who should be available to respond to an emergency  
35 that may involve the use of an automatic external defibrillator unit  
36 during normal operating hours. Acquirers of automatic external  
37 defibrillator units may need to train additional employees to assure  
38 that a trained employee is available at all times. *Under no*  
39 *circumstances shall the term "normal operating hours" be defined*  
40 *to mean less than 50 hours per week of the total number of hours*

1 *per week that the health studio is available for use by members or*  
2 *the general public. If a health studio is unstaffed for more than 20*  
3 *percent of the total number of hours per week that the studio is*  
4 *available for use by members or the general public, the studio*  
5 *shall be required to do both of the following:*

6 *(i) Provide those using the studio with a device that, when*  
7 *activated, contacts emergency services, and shall, as a condition*  
8 *of the use of the studio, require that the user keep the device with*  
9 *them at all times when using the studio.*

10 *(ii) Require that all employees working on the premises complete*  
11 *a training course in cardiopulmonary resuscitation and automated*  
12 *external defibrillator use that complies with the regulations*  
13 *adopted by the Emergency Medical Services Authority and the*  
14 *standards of the American Heart Association or the American Red*  
15 *Cross. Each employee must receive training within 30 days of*  
16 *commencing work.*

17 (E) There is a written plan that exists that describes the  
18 procedures to be followed in the event of an emergency that may  
19 involve the use of an automatic external defibrillator, to ensure  
20 compliance with the requirements of this section. The written plan  
21 shall include, but not be limited to, immediate notification of 911  
22 and trained office personnel at the start of automatic external  
23 defibrillator procedures.

24 (f) Subdivisions (b), (c), and (d) do not apply in the case of  
25 personal injury or wrongful death that results from gross negligence  
26 or willful or wanton misconduct on the part of the person who  
27 uses, attempts to use, or maliciously fails to use an automatic  
28 external defibrillator to render emergency care or treatment.

29 (g) For purposes of this section, “health studio” means any  
30 facility permitting the use of its facilities and equipment or access  
31 to its facilities and equipment, to individuals or groups for physical  
32 exercise, body building, reducing, figure development, fitness  
33 training, or any other similar purpose, on a membership basis.  
34 “Health studio” does not include any hotel or similar business that  
35 offers fitness facilities to its registered guests for a fee or as part  
36 of the hotel charges.